

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

Supreme Raheem Ackbar, #182864, a/k/a)
 Ronald Gary, #275886,)
)
 Plaintiff,)
)
 v.)
)
 State of South Carolina, *et al.*,)
)
 Defendant.)
 _____)

Civil Action No. 4:17-1019-RMG

ORDER

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This matter is before the Court on the Report and Recommendation of the Magistrate Judge, recommending summary dismissal without service of process of Defendants the State of South Carolina, the South Carolina Department of Corrections (“SCDC”), and Lieber Correctional Institute. For the reasons set forth below, the Court adopts the Report and Recommendation.

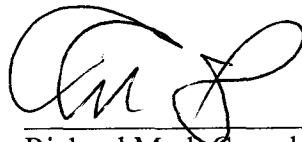
Plaintiff asserts claims under § 1983 based on alleged violations of his First, Fourth, Fifth, Eighth, and Fourteenth Amendment rights. Specifically, he alleges that on February 17, 2015, Defendants Skipper, Cooper, and Wilson confiscated his “God Center Culture Islam” materials. Plaintiff requests the immediate return of his property, monetary relief, and declaratory relief for the removal of “Security Threat Group” designation of the “Nation of Gods and Earths” within the SCDC, and that the “God Center Culture Islam Way of Life” be officially recognized as a religion by SCDC.

This action been filed *in forma pauperis* under 28 U.S.C. § 1915, which permits an indigent litigant to commence an action in federal court without payment of costs. The statute allows a district court to summarily dismiss an action that “fails to state a claim on which relief may be granted,” “is frivolous or malicious,” or “seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B). The Magistrate Judge recommends summary

dismissal of South Carolina, SCDC, and Lieber Correctional Institute from this action because those entities are not “persons” acting under color of state law for § 1983 purposes. *See Harden v. Green*, 27 F. App’x 173, 178 (4th Cir. 2001); *Preval v. Reno*, 203 F.3d 821 (4th Cir. 2000). South Carolina and the SCDC also have Eleventh Amendment immunity from this suit. *See Edelman v. Jordan*, 415 U.S. 651, 663 (1974). The Court agrees fully with the analysis and recommendation of the Magistrate Judge. Plaintiff objects to the Report and Recommendation, but his objection is nonsensical: “Plaintiff object to the Court’s R&R on the grounds that the constructive amendment of Plaintiff’s complaint violates Plaintiff’s Fifth Amendment right to the grand jury indictment.” (Dkt. No. 17 at 2.)

The Court therefore **ADOPTS** the Report and Recommendation of the Magistrate Judge (Dkt. No. 13) as the Order of the Court and **DISMISSES WITHOUT PREJUDICE** the State of South Carolina, the South Carolina Department of Corrections, and Lieber Correctional Institute from this action without service of process.

AND IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'RM Gergel', written over a horizontal line.

Richard Mark Gergel
United States District Court Judge

May 30, 2017
Charleston, South Carolina